

MEMO ENDORSED

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HARTFORD FIRE INSURANCE COMPANY,

Plaintiff,

- against -

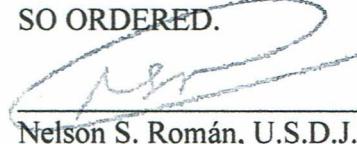
QUEENS COUNTY CARTING INC. and
QCC MAINTENANCE INC.,

Defendants.

Plaintiff's motion is denied as moot as the Clerk's Office issued Clerk's Certificates of Default for each Defendant on April 28, 2020 (ECF Nos. 16 and 17) and Plaintiff filed a proposed Order to Show Cause for Default Judgment. Clerk of the Court requested to terminate the motion (doc. 19).
Dated: June 29, 2020

Case No. 7:20-cv-01844

SO ORDERED.


Nelson S. Román, U.S.D.J.

PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF
DEFAULT JUDGMENT IN A SUM CERTAIN PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 55(b)

Plaintiff, Hartford Fire Insurance Company ("Plaintiff"), by and through its undersigned attorneys, hereby requests that the Clerk of this Court enter default judgments in a sum certain against defendants Queens County Carting Inc., and QCC Maintenance Inc., (collectively, "Defendants") pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, and respectfully states as follows:

1. On March 2, 2020, Plaintiff filed its Complaint asserting claims for breach of contract and account stated for unpaid insurance premiums owed by Defendants. Plaintiff seeks

to recover the sum of \$209,889.00 as to defendant Queens County Carting Inc., and the sum of \$286,679.40 as to defendant QCC Maintenance Inc., for unpaid insurance premiums. [ECF No. 1.]

2. Plaintiff served the Summons and Complaint on all Defendants through the New York Secretary of State on March 16, 2020, as evidenced by the Affidavits of Service on file with this Court. [ECF Nos. 8, 9].

3. Pursuant to Federal Rules of Civil Procedure Rule 12(a)(1)(A)(i), Defendants were required to serve an answer or otherwise respond to the complaint by April 6, 2020.

4. Defendants failed to timely answer or otherwise respond to the Complaint, and also failed to timely appear in this action.

5. On April 28, 2020 the Clerk of this Court entered the default of Defendants. [ECF Nos. 16, 17.]

6. Defendants are business corporations and thus are not minors or incompetent persons. Further, as business corporations, Defendants are not subject to the Soldiers' and Sailors' Civil Relief Act of 1940.

7. Rule 55(b)(1) of the Federal Rules of Civil Procedure states as follows:

(b) Entering a Default Judgment.

(1) By the Clerk. If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk – on the plaintiff's request, with an affidavit showing the amount due – must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent.

Fed. R. Civ. P. 55(b)(1).

8. As more fully set forth in the Complaint and the Exhibits annexed thereto, and in the Declaration of Michele Moran of The Hartford submitted herewith, the sum certain due and

owing to Plaintiff by defendant Queens Carting is \$209,889.00, and the sum certain due and owing to Plaintiff by defendant QCC is \$286,679.40.

WHEREFORE, pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, Plaintiff Hartford Fire Insurance Company respectfully requests that the Clerk of this Court enter Default Judgments against defendant Queens County Carting Inc. in the sum certain of \$209,889.00 plus interest at the statutory rate of 9% from and after the default date of November 27, 2019, and against defendant QCC Maintenance Inc. in the sum certain of \$286,679.40, plus interest at the statutory rate of 9% from and after the default date of December 12, 2019, together with the costs of this action.

Dated: White Plains, New York
May 12, 2020

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**

By: /s/ Mark G. Ledwin
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CERTIFICATE OF SERVICE

Mark G. Ledwin, an attorney duly admitted to practice before this Court, hereby certifies that on the 12th day of May 2020, I caused true and correct copies of the foregoing pleading to be served by first class U.S. mail, postage prepaid, upon Defendants at the addresses established by Defendants with the New York Secretary of State for the receipt of service of process:

QCC Maintenance Inc.
422 Windmill Avenue
West Babylon, NY 11704

Queens County Carting Inc.
23-73 26th Street
Astoria, NY 11102

John L. Russo, Esq.
J.L. Russo, P.C.
31-19 Newtown Ave., Suite 500
Astoria, NY 11102

Dated: White Plains, New York
May 12, 2020

/s/ Mark G. Ledwin
Mark G. Ledwin, Esq.